

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK----- X
KENNETH T. CHAVEZ,

Plaintiff,

-against-

L2 LIU INC, d/b/a QUALITY INN NEAR
SUNSET PARK,Defendants.
----- XMEMORANDUM & ORDER

1:20-CV-1388 (ENV) (LB)

VITALIANO, D.J.

Plaintiff Kenneth Chavez commenced this action against defendant L2 Liu Inc, d/b/a Quality Inn Near Sunset Park Hotel (“L2 Liu”), alleging that its website contained insufficient information concerning accessibility, in violation of Title III of the Americans with Disabilities Act (“ADA”), the New York State Human Rights Law (“NYSHRL”), and the New York City Human Rights Law (“NYCHRL”). Having received only radio silence from L2 Liu, Chavez moved for default judgment, seeking an award statutory damages, compensatory damages, punitive damages, declaratory and injunctive relief, and attorney’s fees. Dkt. 10. On February 26, 2021, Magistrate Judge Lois Bloom issued a Report and Recommendation (“R&R”), in which she recommended granting in part and denying in part plaintiff’s motion for default judgment. Dkt. 12. With notice given, no party has filed objections to the R&R. In accordance with the applicable clear-error standard of review, *see Dafeng Hengwei Textile Co. v. Aceco Indus. & Commercial Corp.*, 54 F. Supp. 3d 279, 283 (E.D.N.Y. 2014), the Court has carefully reviewed the R&R, and found it to be correct, well-reasoned, and free of any clear error. As a result, the Court adopts the R&R with the modifications set forth below.

First, in assessing plaintiff's entitlement to damages under NYSHRL, Judge Bloom found that "plaintiff's allegations are sufficient to establish a violation" of N.Y. Civ. Rights Law § 40-c, but that plaintiff had not filed the requisite proof of notice to the New York Attorney General under § 40-d. R&R at 14. Judge Bloom therefore recommended denying plaintiff's request for statutory damages without prejudice pending the filing of such proof. *Id.* Two weeks after the R&R was docketed, plaintiff filed proof that he sent the required notice to the New York Attorney General on March 14, 2020, in satisfaction of the notice requirement. Dkt. 13. The Court therefore awards plaintiff the requested \$500 in statutory damages under NYSHRL.

Second, Judge Bloom recommended deferring the calculation of attorney's fees until plaintiff's attorneys had an opportunity to demonstrate reasonable efforts to enforce the recommended injunctive relief. R&R at 16. However, with all issues of liability and damages resolved by defendant's default, the Court does not see any cause to delay in calculating and awarding plaintiff's attorney's fees in this case. Accordingly, the court refers the calculation of attorney's fees based on the current record to Judge Bloom for a supplemental report and recommendation.

Conclusion

The R&R is adopted in line with the above modifications and plaintiff's motion for default judgment is granted. Chavez is awarded statutory damages in the amount of \$500, compensatory damages in the amount of \$1,000, and injunctive relief as recommended by Judge Bloom. *See* R&R at 13–14. An award of punitive damages is denied. R&R at 15. The Court

refers the calculation of attorney's fees to Judge Bloom for a supplemental report and recommendation.

So Ordered.

Dated: Brooklyn, New York
March 24, 2021

/s/ Eric N. Vitaliano

ERIC N. VITALIANO
United States District Judge